

AMENDED IN ASSEMBLY APRIL 12, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2710

Introduced by Assembly Member Blumenfield

February 19, 2010

~~An act to amend Section 182.6 of the Streets and Highways Code, relating to regional transportation. An act to amend Sections 22507 and 22651 of the Vehicle Code, relating to vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2710, as amended, Blumenfield. ~~Regional transportation: regional surface transportation program funds. Vehicles: signs: parking violations: removal.~~

Existing law authorizes local authorities, by ordinance or resolution, to prohibit or restrict the stopping, parking, or standing of vehicles, including, but not limited to, vehicles that are 6 feet or more in height, including any load thereon, within 100 feet of any intersection, on certain streets or highways, or portions thereof, during all or certain hours of the day. Existing law requires, with the exception of alleys, that the ordinance or resolution does not apply until signs or markings giving adequate notice thereof have been placed.

Existing law authorizes a peace officer, or a regularly employed and salaried public employee who is engaged in directing traffic or enforcing parking laws and regulations, to remove a vehicle located within the territorial limits in which the officer or employee is allowed to act under specified and enumerated circumstances, including when a vehicle is parked or left standing where local authorities by resolution or ordinance have prohibited parking and have authorized the removal

of vehicles. Existing law also requires that a vehicle may not be removed unless signs are posted giving notice of the removal.

This bill would authorize a local authority, in lieu of posting signs that prohibit or restrict the stopping, parking, or standing of vehicles, to provide notice by issuing a warning citation advising the registered owner of the vehicle that he or she may be subject to a notice of violation for a subsequent violation and that a subsequent violation may result in the impounding of the vehicle.

The bill would provide that a local authority is not required to provide any further notice for a subsequent violation prior to impounding a vehicle in violation of a local ordinance or resolution authorizing removal of the vehicle.

~~Under existing law, the Department of Transportation apportions, and monitors local implementing agencies' use of, federal regional surface transportation program funds. The department shall provide written notice to implementing agencies when there is one year remaining within the 3-year deadline to utilize the funds, and the implementing agencies are required to provide the department, within 6 months of the notice date, a plan to obligate these funds to a list of projects and milestones.~~

~~This bill would require the implementing agencies to provide this report within 5 months.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22507 of the Vehicle Code is amended to
2 read:

3 22507. (a) ~~Local authorities may,~~(1) A local authority, by
4 ordinance or resolution, *may* prohibit or restrict the stopping,
5 parking, or standing of vehicles, including, but not limited to,
6 vehicles that are six feet or more in height (including any load

1 thereon) within 100 feet of any intersection, on certain streets or
2 highways, or portions thereof, during all or certain hours of the
3 day.~~The~~

4 (2) *The* ordinance or resolution may include a designation of
5 certain streets upon which preferential parking privileges are given
6 to residents and merchants adjacent to the streets for their use and
7 the use of their guests, under which the residents and merchants
8 may be issued a permit or permits that exempt them from the
9 prohibition or restriction of the ordinance or resolution.~~With~~

10 (3) *With* the exception of alleys, the ordinance or resolution
11 shall not apply until signs or markings giving adequate notice
12 thereof have been placed.~~A~~

13 (4) A local ordinance or resolution adopted pursuant to this
14 section may contain provisions that are reasonable and necessary
15 to ensure the effectiveness of a preferential parking program.

16 (b) An ordinance or resolution adopted under this section may
17 also authorize preferential parking permits for members of
18 organizations, professions, or other designated groups, including,
19 but not limited to, school personnel, to park on specified streets if
20 the local authority determines that the use of the permits will not
21 adversely affect parking conditions for residents and merchants in
22 the area.

23 (c) *Notwithstanding paragraph (3) of subdivision (a), a local*
24 *authority may, in lieu of posting signs that prohibit or restrict the*
25 *stopping, parking, or standing of vehicles, or for a violation of*
26 *subdivision (a) of Section 7599 of the Government Code, provide*
27 *notice by issuing a warning citation advising the registered owner*
28 *of the vehicle that he or she may be subject to a notice of violation*
29 *pursuant to Section 40202 for a subsequent violation and that a*
30 *subsequent violation may result in the impounding of the vehicle*
31 *pursuant to subdivision (n) of Section 22651. A local authority is*
32 *not required to provide any further notice for a subsequent*
33 *violation prior to impounding a vehicle in violation of a local*
34 *ordinance or resolution authorizing removal of the vehicle.*

35 SEC. 2. *Section 22651 of the Vehicle Code is amended to read:*

36 22651. A peace officer, as defined in Chapter 4.5 (commencing
37 with Section 830) of Title 3 of Part 2 of the Penal Code, or a
38 regularly employed and salaried employee, who is engaged in
39 directing traffic or enforcing parking laws and regulations, of a
40 city, county, or jurisdiction of a state agency in which a vehicle is

1 located, may remove a vehicle located within the territorial limits
2 in which the officer or employee may act, under the following
3 circumstances:

4 (a) When a vehicle is left unattended upon a bridge, viaduct, or
5 causeway or in a tube or tunnel where the vehicle constitutes an
6 obstruction to traffic.

7 (b) When a vehicle is parked or left standing upon a highway
8 in a position so as to obstruct the normal movement of traffic or
9 in a condition so as to create a hazard to other traffic upon the
10 highway.

11 (c) When a vehicle is found upon a highway or public land and
12 a report has previously been made that the vehicle is stolen or a
13 complaint has been filed and a warrant thereon is issued charging
14 that the vehicle was embezzled.

15 (d) When a vehicle is illegally parked so as to block the entrance
16 to a private driveway and it is impractical to move the vehicle from
17 in front of the driveway to another point on the highway.

18 (e) When a vehicle is illegally parked so as to prevent access
19 by firefighting equipment to a fire hydrant and it is impracticable
20 to move the vehicle from in front of the fire hydrant to another
21 point on the highway.

22 (f) When a vehicle, except highway maintenance or construction
23 equipment, is stopped, parked, or left standing for more than four
24 hours upon the right-of-way of a freeway that has full control of
25 access and no crossings at grade and the driver, if present, cannot
26 move the vehicle under its own power.

27 (g) When the person in charge of a vehicle upon a highway or
28 public land is, by reason of physical injuries or illness,
29 incapacitated to an extent so as to be unable to provide for its
30 custody or removal.

31 (h) (1) When an officer arrests a person driving or in control
32 of a vehicle for an alleged offense and the officer is, by this code
33 or other law, required or permitted to take, and does take, the
34 person into custody.

35 (2) When an officer serves a notice of an order of suspension
36 or revocation pursuant to Section 13388 or 13389.

37 (i) (1) When a vehicle, other than a rented vehicle, is found
38 upon a highway or public land, or is removed pursuant to this code,
39 and it is known that the vehicle has been issued five or more notices
40 of parking violations to which the owner or person in control of

1 the vehicle has not responded within 21 calendar days of notice
2 of citation issuance or citation issuance or 14 calendar days of the
3 mailing of a notice of delinquent parking violation to the agency
4 responsible for processing notices of parking violations, or the
5 registered owner of the vehicle is known to have been issued five
6 or more notices for failure to pay or failure to appear in court for
7 traffic violations for which a certificate has not been issued by the
8 magistrate or clerk of the court hearing the case showing that the
9 case has been adjudicated or concerning which the registered
10 owner's record has not been cleared pursuant to Chapter 6
11 (commencing with Section 41500) of Division 17, the vehicle may
12 be impounded until that person furnishes to the impounding law
13 enforcement agency all of the following:

14 (A) Evidence of his or her identity.

15 (B) An address within this state at which he or she can be
16 located.

17 (C) Satisfactory evidence that all parking penalties due for the
18 vehicle and all other vehicles registered to the registered owner of
19 the impounded vehicle, and all traffic violations of the registered
20 owner, have been cleared.

21 (2) The requirements in subparagraph (C) of paragraph (1) shall
22 be fully enforced by the impounding law enforcement agency on
23 and after the time that the Department of Motor Vehicles is able
24 to provide access to the necessary records.

25 (3) A notice of parking violation issued for an unlawfully parked
26 vehicle shall be accompanied by a warning that repeated violations
27 may result in the impounding of the vehicle. In lieu of furnishing
28 satisfactory evidence that the full amount of parking penalties or
29 bail has been deposited, that person may demand to be taken
30 without unnecessary delay before a magistrate, for traffic offenses,
31 or a hearing examiner, for parking offenses, within the county in
32 which the offenses charged are alleged to have been committed
33 and who has jurisdiction of the offenses and is nearest or most
34 accessible with reference to the place where the vehicle is
35 impounded. Evidence of current registration shall be produced
36 after a vehicle has been impounded, or, at the discretion of the
37 impounding law enforcement agency, a notice to appear for
38 violation of subdivision (a) of Section 4000 shall be issued to that
39 person.

1 (4) A vehicle shall be released to the legal owner, as defined in
2 Section 370, if the legal owner does all of the following:

3 (A) Pays the cost of towing and storing the vehicle.

4 (B) Submits evidence of payment of fees as provided in Section
5 9561.

6 (C) Completes an affidavit in a form acceptable to the
7 impounding law enforcement agency stating that the vehicle was
8 not in possession of the legal owner at the time of occurrence of
9 the offenses relating to standing or parking. A vehicle released to
10 a legal owner under this subdivision is a repossessed vehicle for
11 purposes of disposition or sale. The impounding agency shall have
12 a lien on any surplus that remains upon sale of the vehicle to which
13 the registered owner is or may be entitled, as security for the full
14 amount of the parking penalties for all notices of parking violations
15 issued for the vehicle and for all local administrative charges
16 imposed pursuant to Section 22850.5. The legal owner shall
17 promptly remit to, and deposit with, the agency responsible for
18 processing notices of parking violations from that surplus, on
19 receipt of that surplus, the full amount of the parking penalties for
20 all notices of parking violations issued for the vehicle and for all
21 local administrative charges imposed pursuant to Section 22850.5.

22 (5) The impounding agency that has a lien on the surplus that
23 remains upon the sale of a vehicle to which a registered owner is
24 entitled pursuant to paragraph (4) has a deficiency claim against
25 the registered owner for the full amount of the parking penalties
26 for all notices of parking violations issued for the vehicle and for
27 all local administrative charges imposed pursuant to Section
28 22850.5, less the amount received from the sale of the vehicle.

29 (j) When a vehicle is found illegally parked and there are no
30 license plates or other evidence of registration displayed, the
31 vehicle may be impounded until the owner or person in control of
32 the vehicle furnishes the impounding law enforcement agency
33 evidence of his or her identity and an address within this state at
34 which he or she can be located.

35 (k) When a vehicle is parked or left standing upon a highway
36 for 72 or more consecutive hours in violation of a local ordinance
37 authorizing removal.

38 (l) When a vehicle is illegally parked on a highway in violation
39 of a local ordinance forbidding standing or parking and the use of
40 a highway, or a portion thereof, is necessary for the cleaning,

1 repair, or construction of the highway, or for the installation of
2 underground utilities, and signs giving notice that the vehicle may
3 be removed are erected or placed at least 24 hours prior to the
4 removal by a local authority pursuant to the ordinance.

5 (m) Wherever the use of the highway, or a portion of the
6 highway, is authorized by a local authority for a purpose other
7 than the normal flow of traffic or for the movement of equipment,
8 articles, or structures of unusual size, and the parking of a vehicle
9 would prohibit or interfere with that use or movement, and signs
10 giving notice that the vehicle may be removed are erected or placed
11 at least 24 hours prior to the removal by a local authority pursuant
12 to the ordinance.

13 (n) Whenever a vehicle is parked or left standing where local
14 authorities, by resolution or ordinance, have prohibited parking
15 and have authorized the removal of vehicles.—*A Except as*
16 *authorized pursuant to subdivision (c) of Section 22507, a vehicle*
17 *shall not be removed unless signs are posted giving notice of the*
18 *removal.*

19 (o) (1) When a vehicle is found or operated upon a highway,
20 public land, or an offstreet parking facility under the following
21 circumstances:

22 (A) With a registration expiration date in excess of six months
23 before the date it is found or operated on the highway, public lands,
24 or the offstreet parking facility.

25 (B) Displaying in, or upon, the vehicle, a registration card,
26 identification card, temporary receipt, license plate, special plate,
27 registration sticker, device issued pursuant to Section 4853, or
28 permit that was not issued for that vehicle, or is not otherwise
29 lawfully used on that vehicle under this code.

30 (C) Displaying in, or upon, the vehicle, an altered, forged,
31 counterfeit, or falsified registration card, identification card,
32 temporary receipt, license plate, special plate, registration sticker,
33 device issued pursuant to Section 4853, or permit.

34 (2) When a vehicle described in paragraph (1) is occupied, only
35 a peace officer, as defined in Chapter 4.5 (commencing with
36 Section 830) of Title 3 of Part 2 of the Penal Code, may remove
37 the vehicle.

38 (3) For the purposes of this subdivision, the vehicle shall be
39 released to the owner or person in control of the vehicle only after
40 the owner or person furnishes the storing law enforcement agency

1 with proof of current registration and a currently valid driver's
2 license to operate the vehicle.

3 (4) As used in this subdivision, "offstreet parking facility" means
4 an offstreet facility held open for use by the public for parking
5 vehicles and includes a publicly owned facility for offstreet
6 parking, and a privately owned facility for offstreet parking if a
7 fee is not charged for the privilege to park and it is held open for
8 the common public use of retail customers.

9 (p) When the peace officer issues the driver of a vehicle a notice
10 to appear for a violation of Section 12500, 14601, 14601.1,
11 14601.2, 14601.3, 14601.4, 14601.5, or 14604 and the vehicle is
12 not impounded pursuant to Section 22655.5. A vehicle so removed
13 from the highway or public land, or from private property after
14 having been on a highway or public land, shall not be released to
15 the registered owner or his or her agent, except upon presentation
16 of the registered owner's or his or her agent's currently valid
17 driver's license to operate the vehicle and proof of current vehicle
18 registration, or upon order of a court.

19 (q) Whenever a vehicle is parked for more than 24 hours on a
20 portion of highway that is located within the boundaries of a
21 common interest development, as defined in subdivision (c) of
22 Section 1351 of the Civil Code, and signs, as required by paragraph
23 (1) of subdivision (a) of Section 22658 of this code, have been
24 posted on that portion of highway providing notice to drivers that
25 vehicles parked thereon for more than 24 hours will be removed
26 at the owner's expense, pursuant to a resolution or ordinance
27 adopted by the local authority.

28 (r) When a vehicle is illegally parked and blocks the movement
29 of a legally parked vehicle.

30 (s) (1) When a vehicle, except highway maintenance or
31 construction equipment, an authorized emergency vehicle, or a
32 vehicle that is properly permitted or otherwise authorized by the
33 Department of Transportation, is stopped, parked, or left standing
34 for more than eight hours within a roadside rest area or viewpoint.

35 (2) Notwithstanding paragraph (1), when a commercial motor
36 vehicle, as defined in paragraph (1) of subdivision (b) of Section
37 15210, is stopped, parked, or left standing for more than 10 hours
38 within a roadside rest area or viewpoint.

39 (3) For purposes of this subdivision, a roadside rest area or
40 viewpoint is a publicly maintained vehicle parking area, adjacent

1 to a highway, utilized for the convenient, safe stopping of a vehicle
2 to enable motorists to rest or to view the scenery. If two or more
3 roadside rest areas are located on opposite sides of the highway,
4 or upon the center divider, within seven miles of each other, then
5 that combination of rest areas is considered to be the same rest
6 area.

7 (t) When a peace officer issues a notice to appear for a violation
8 of Section 25279.

9 (u) When a peace officer issues a citation for a violation of
10 Section 11700 and the vehicle is being offered for sale.

11 SECTION 1. Section 182.6 of the Streets and Highways Code
12 is amended to read:

13 ~~182.6.—(a) Notwithstanding Sections 182 and 182.5, Sections~~
14 ~~188, 188.8, and 825 do not apply to the expenditure of an amount~~
15 ~~of federal funds equal to the amount of federal funds apportioned~~
16 ~~to the state pursuant to that portion of subsection (b)(3) of Section~~
17 ~~104, subsections (a) and (c) of Section 157, and subsection (d) of~~
18 ~~Section 160 of Title 23 of the United States Code that is allocated~~
19 ~~within the state subject to subsection (d)(3) of Section 133 of that~~
20 ~~code. These funds shall be known as the regional surface~~
21 ~~transportation program funds. The department, the transportation~~
22 ~~planning agencies, the county transportation commissions, and the~~
23 ~~metropolitan planning organizations may do all things necessary~~
24 ~~in their jurisdictions to secure and expend those federal funds in~~
25 ~~accordance with the intent of federal law and this chapter.~~

26 ~~(b) The regional surface transportation program funds shall be~~
27 ~~apportioned by the department to the metropolitan planning~~
28 ~~organizations designated pursuant to Section 134 of Title 23 of~~
29 ~~the United States Code and, in areas where none has been~~
30 ~~designated, to the transportation planning agency designated~~
31 ~~pursuant to Section 29532 of the Government Code. The funds~~
32 ~~shall be apportioned in the manner and in accordance with the~~
33 ~~formula set forth in subsection (d)(3) of Section 133 of Title 23~~
34 ~~of the United States Code, except that the apportionment shall be~~
35 ~~among all areas of the state. Funds apportioned under this~~
36 ~~subdivision shall remain available for three federal fiscal years,~~
37 ~~including the federal fiscal year apportioned.~~

38 ~~(c) Where county transportation commissions have been created~~
39 ~~by Division 12 (commencing with Section 130000) of the Public~~
40 ~~Utilities Code, all regional surface transportation program funds~~

1 shall be further apportioned by the metropolitan planning
2 organization to the county transportation commission on the basis
3 of relative population.

4 In the Monterey Bay region, all regional surface transportation
5 program funds shall be further apportioned, on the basis of relative
6 population, by the metropolitan planning organization to the
7 regional transportation planning agencies designated under
8 subdivision (b) of Section 29532 of the Government Code.

9 (d) The applicable metropolitan planning organization, county
10 transportation commission, or transportation planning agency shall
11 annually apportion the regional surface transportation program
12 funds for projects in each county, as follows:

13 (1) An amount equal to the amount apportioned under the
14 federal-aid urban program in federal fiscal year 1990-91 adjusted
15 for population. The adjustment for population shall be based on
16 the population determined in the 1990 federal census except that
17 no county shall be apportioned less than 110 percent of the
18 apportionment received in the 1990-91 fiscal year. These funds
19 shall be apportioned for projects implemented by cities, counties,
20 and other transportation agencies on a fair and equitable basis
21 based upon an annually updated five-year average of allocations.
22 Projects shall be nominated by cities, counties, transit operators,
23 and other public transportation agencies through a process that
24 directly involves local government representatives.

25 (2) An amount not less than 110 percent of the amount that the
26 county was apportioned under the federal-aid secondary program
27 in federal fiscal year 1990-91, for use by that county.

28 (e) The department shall notify each metropolitan planning
29 organization, county transportation commission, and transportation
30 planning agency receiving an apportionment under this section,
31 as soon as possible each year, of the amount of obligation authority
32 estimated to be available for program purposes.

33 The metropolitan planning organization and transportation
34 planning agency, in cooperation with the department, congestion
35 management agencies, cities, counties, and affected transit
36 operators, shall select and program projects in conformance with
37 federal law. The metropolitan planning organization and
38 transportation planning agency shall submit its transportation
39 improvement program prepared pursuant to Section 134 of Title
40 23 of the United States Code to the department for incorporation

1 into the state transportation improvement program not later than
2 August 1 of each even-numbered year beginning in 1994.

3 (f) Not later than July 1 of each year, the metropolitan planning
4 organizations, and the regional transportation planning agencies,
5 receiving obligational authority under this article shall notify the
6 department of the projected amount of obligational authority that
7 each entity intends to use during the remainder of the current
8 federal fiscal year, including, but not limited to, a list of projects
9 that will be obligated by the end of the current federal fiscal year.
10 Any federal obligational authority that will not be used shall be
11 redistributed by the department to other projects in a manner that
12 ensures that the state will continue to compete for and receive
13 increased obligational authority during the federal redistribution
14 of obligational authority. If the department does not have sufficient
15 federal apportionments to fully use excess obligational authority,
16 the metropolitan planning organizations or regional transportation
17 planning agencies relinquishing obligational authority shall make
18 sufficient apportionments available to the department to fund
19 alternate projects, when practical, within the geographical areas
20 relinquishing the obligational authority. Notwithstanding this
21 subdivision, the department shall comply with subsections (d)(3)
22 and (f) of Section 133 of Title 23 of the United States Code.

23 (g) A regional transportation planning agency that is not
24 designated as, nor represented by, a metropolitan planning
25 organization with an urbanized area population greater than
26 200,000 pursuant to the 1990 federal census may exchange its
27 annual apportionment received pursuant to this section on a
28 dollar-for-dollar basis for nonfederal State Highway Account funds,
29 which shall be apportioned in accordance with subdivision (d).

30 (h) (1) If a regional transportation planning agency described
31 in subdivision (g) does not elect to exchange its annual
32 apportionment, a county located within the boundaries of that
33 regional transportation planning agency may elect to exchange its
34 annual apportionment received pursuant to paragraph (2) of
35 subdivision (d) for nonfederal State Highway Account funds.

36 (2) A county not included in a regional transportation planning
37 agency described in subdivision (g), whose apportionment pursuant
38 to paragraph (2) of subdivision (d) was less than 1 percent of the
39 total amount apportioned to all counties in the state, may exchange
40 its apportionment for nonfederal State Highway Account funds.

1 If the apportionment to the county was more than $3\frac{1}{2}$ percent of
2 the total apportioned to all counties in the state, it may exchange
3 that portion of its apportionment in excess of $3\frac{1}{2}$ percent for
4 nonfederal State Highway Account funds. Exchange funds received
5 by a county pursuant to this section may be used for any
6 transportation purpose.

7 (i) The department shall be responsible for closely monitoring
8 the use of federal transportation funds, including regional surface
9 transportation program funds to assure full and timely use. The
10 department shall prepare a quarterly report for submission to the
11 commission regarding the progress in use of all federal
12 transportation funds. The department shall notify the commission
13 and the appropriate implementation agency whenever there is a
14 failure to use federal funds within the three-year apportionment
15 period established under subdivision (b).

16 (j) The department shall provide written notice to implementing
17 agencies when there is one year remaining within the three-year
18 apportionment period established under subdivision (b) of this
19 section.

20 (k) Within five months of the date of notification required under
21 subdivision (j), the implementing agency shall provide to the
22 department a plan to obligate funds that includes, but need not be
23 limited to, a list of projects and milestones.

24 (l) If the implementing agency has not met the milestones
25 established in the implementation plan required under subdivision
26 (k), prior to the end of the three-year apportionment period
27 established under subdivision (b), the commission shall redirect
28 those funds for use on other transportation projects in the state.

29 (m) Notwithstanding subdivisions (g) and (h), regional surface
30 transportation program funds available under this section
31 exchanged pursuant to Section 182.8 may be loaned to and
32 expended by the department. The department shall repay from the
33 State Highway Account to the Traffic Congestion Relief Fund all
34 funds received as federal reimbursements for funds exchanged
35 under Section 182.8 as they are received from the Federal Highway
36 Administration, except that those repayments are not required to
37 be made more frequently than on a quarterly basis.

38 (n) Prior to determining the amount for local subvention required
39 by this section, the department shall first deduct the amount

1 authorized by the Legislature for increased department oversight
2 of the federal subvented program.

3 ~~SEC. 2. If the Commission on State Mandates determines that~~
4 ~~this act contains costs mandated by the state, reimbursement to~~
5 ~~local agencies and school districts for those costs shall be made~~
6 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
7 ~~4 of Title 2 of the Government Code.~~

O